

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JOYCE DAILY</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 244,665
<b>NATIONAL FOREST PRODUCTS</b>	)	
d/b/a <b>FLAIR-FOLD, INC.</b>	)	
Respondent	)	
AND	)	
	)	
<b>ZURICH INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge Bryce D. Benedict on July 8, 1999.

**ISSUES**

The sole issue on appeal is whether claimant is temporarily and totally disabled.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes that the issue raised by respondent is not a jurisdictional issue and the appeal must, therefore, be dismissed.

On appeals from preliminary hearing orders the Board has limited jurisdiction. The Board only has authority to review allegations that the administrative law judge exceeded his or her jurisdiction. K.S.A. 1998 Supp. 44-551. This includes allegations that the administrative law judge committed error on the issues identified as jurisdictional issues in K.S.A. 1998 Supp. 44-534a.

In this appeal, respondent contends that claimant was not temporarily totally disabled because respondent provided accommodated work for claimant until such time that respondent closed its plant and went out of business. Respondent contends that the issue raised here is a defense as identified in K.S.A. 1998 Supp. 44-534a and for that

reason the Board has jurisdiction. The Board has previously construed the reference to defenses in K.S.A. 1998 Supp. 44-534a as a reference to those types of defenses which might completely bar the application of the Act or otherwise completely bar the claim. Whether claimant is or is not, at a given time, temporarily totally disabled is not the type of defense that the Board considers to raise a jurisdictional issue. Accordingly, the Board does not have jurisdiction to consider the claims made in this appeal.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal of the preliminary hearing Order entered by Administrative Law Judge Bryce D. Benedict on July 8, 1999, should be, and the same is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 1999.

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BOARD MEMBER

c: George H. Pearson, Topeka, KS  
Jeff S. Bloskey, Overland Park, KS  
Bryce D. Benedict, Administrative Law Judge  
Philip S. Harness, Director